

Subject: RE: [Fwd: North Star et al v. Nugget et al]

From: "Steven J. Shamburek" <shamburek@gci.net>

Date: Sun, 06 Nov 2005 20:10:51 -0900

To: "Herbert Viergutz" <barmar@gci.net>

CC: "Gloria Y. Ho" <Ho@OLES.com>, "Michael W. Sewright" <mws@bpk.com>

Herb,

There has been a conflict for years that has been disregarded by the defendants and their counsel. An attorney entering a case takes the case in the posture he or she finds it. The deadlines all of us previously reached in the response to the court were achieved after consulting the schedules of the witnesses, client representatives and lawyers. Too many individuals were and are not available during the Holiday season. Unless we adhere to the current schedule, we will not be able to complete the discovery. Judge Holland stated that he is unlikely to consider changes in the deadlines absent good cause.

This is a case that should have settled with an exchange of letters; it is now approaching its eight year of litigation. Nugget appears to be willing to bankrupt itself to avoid paying its debts; my clients do not want to be bankrupted by a recalcitrant debtor such as Nugget. Nugget shrewdly structured its transactions and activities to concoct defenses to payment. At this time, justice has been long delayed and now is still being denied.

This is a case that requires the full-time attention of an attorney or attorneys. Mike Sewright worked late Friday night. I am working on Sunday night.

The discovery must be produced and the depositions must go forward as scheduled.

Steve Shamburek

From: Michael W. Sewright [mailto:mws@bpk.com]

Sent: Friday, November 04, 2005 6:11 PM

To: Herbert Viergutz

Cc: Gloria Y. Ho; Steve Shamburek

Subject: [Fwd: North Star et al v. Nugget et al]

Herb:

You have not responded to my email reproduced below. I am concerned by that and the fact that Nugget's attorneys are potentially creating a problem for my client, if I accede to your request, by having taken this long to alert USF&G, and therefore you, to the need for separate representation. Can you assure me that by November 10-11 there will be complete interrogatory answers and production of documents, for inspection and copying, as requested in my email and North Star's interrogatories and production requests propounded to USF&G October 6 and follow-up deposition notice? Also, what precisely is the nature of your conflict November 17 and 18? Will you be out of town, where, and why? Can another attorney from your office attend the deposition scheduled for Nov. 17? Are you also conflicted November 14-16, and is it the same conflict? I need that information and your written assurances before I can even approach other counsel about switching USF&G's 30(b)(6) deposition to the week of December 5 as you request. It is not just my call. There are strict, specific discovery provisions in this case as set out in the October 11 report of counsel and associated court order October 12. Please respond.

M. Sewright

----- Original Message -----

Exhibit 3
1 of 2

Subject:North Star et al v. Nugget et al**Date:**Thu, 03 Nov 2005 17:22:30 -0900**From:**Michael W. Sewright <mws@bpk.com>**To:**Herbert Viergutz <barmar@gci.net>

Herb: I am following up on your call yesterday informing me you would be entering an appearance today for USF&G and requesting some accommodations given your unfamiliarity with the matter and conflicts the week of November 14 including November 17. I believe USF&G's responses to North Star's October 6 discovery requests are due November 8, and you indicated the end of that week is "probably doable". I realize I will need those responses in hand (not just mailed) by November 10, and actual production the following day, especially if you're going to be gone the next week, so I will be able to question Nugget's 30(b)(6) designee on November 16 on USF&G documents not produced by Nugget. I also would be agreeable to re-scheduling USF&G's deposition from the 17th to that first full week in December, as you requested, if USF&G's discovery responses and actual production of documents can be accomplished by the 10th and 11th, as outlined above. Let me know if you agree. - Mike

--

Michael W. Sewright
Burr, Pease & Kurtz
810 N Street, Anchorage AK 99501
(907) 276-6100
<http://www.bpk.com>

CONFIDENTIALITY NOTICE: This transmission (including all attachments) is intended (

--

Michael W. Sewright
Burr, Pease & Kurtz
810 N Street, Anchorage AK 99501
(907) 276-6100
<http://www.bpk.com>

CONFIDENTIALITY NOTICE: This transmission (including all attachments) is intended (